

**MEMORANDUM OF UNDERSTANDING
AGRICULTURAL HISTORY FARM PARK
COLD STORAGE UNIT**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made on this ___ day of _____, 2024 by the MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, a public body corporate and agency of the State of Maryland (“the **Commission**”), and MONTGOMERY COUNTY, MARYLAND (the “**County**”), via its Office of Agriculture.

R E C I T A L S:

A. The Commission is a public body corporate and agency of the State of Maryland, created and existing under Md Code, Ann., Land Use, Titles 14 through 27, and is engaged in performing governmental functions of acquiring, developing, maintaining and operating for the present and future inhabitants of the Metropolitan Districts in Prince George’s and Montgomery Counties as set forth under the Land Use Article, public parks and recreation areas within said Metropolitan Districts.

B. The County is the titled owner of real property located at 18400 Muncaster Road, Gaithersburg, Montgomery County, Maryland 20855 (tax account number: 01-00001276, parcel number: N100, property area: 68.36 acres), more commonly known as the Agricultural History Farm Park (the “**Park**”) and more particularly described in Attachment One (“**Property Map**”). The Park includes a building more commonly known as the Agricultural History Farm Park Activity Center (the “**Building**”).

C. Pursuant to an agreement with the County dated May 24, 1972 (the “**1972 Agreement**”), the Commission has the responsibility for planning, developing, maintaining, operating, regulating and controlling all park land subject to the 1972 Agreement, and the Park is subject thereto.

D. The County, via its Office of Agriculture (“**OAG**”), identified a lack of cold storage capacity, especially within the Agricultural Reserve areas, which if made available would provide opportunities for the local farmers to add to their distribution channel and to offer food programs for the public, including farm-to-table, farm-to-school, and farm-to-food banks.

E. The Commission supports the goal of the OAG’s proposed food program.

F. To address the above-identified needs, the OAG will install and operate a commercial cold storage unit in the Park adjacent to the Building as illustrated on the Property Map (the “**Storage Area**”), for the purpose of providing a central location for area farmers to aggregate and store their produce for the purposes more fully described in this MOU (the “**Program**”).

G. This MOU sets forth the terms under which the County will use a portion of the Park

for its Program.

ACCORDINGLY, the parties agree as follows:

1. Incorporation of Recitals. The above Preamble and Recitals are incorporated into this MOU by reference.

2. Property Map. The Property Map is shown on **Attachment One**.

3. Purpose.

3.1 **Purpose.** The County represents to the Commission that the Montgomery County Food Council has obtained grant funding (the "**Program Funding**") for the County to purchase a commercial grade walk-in cold storage unit (the "**Storage Unit**") to operate the Program using the Storage Area. A copy of the County's Program Funding agreement or other document that sets forth the conditions of such Program Funding is attached to and incorporated into this MOU as **Attachment Four**. The Commission acknowledges the County's desire to support the business activities of independent farm operators in Montgomery County by (i) allowing non-profit food service providers that serve the public experiencing food insecurity to pick up food items made available for pick up from the Storage Area; (ii) engaging with restaurants offering farm-to-table meals for their customers; and (iii) cooperating with Montgomery County Public Schools for farm-to-school procurement and programming (collectively, the "**Purpose**").

3.2 **Storage Unit and Area Use.** The County will use the Storage Area for the installation and operation of the Storage Unit and to run the Program thereat for the Purpose. The County shall further abide by any conditions applicable to the operation of the Program set forth in the Program Funding document (if any).

4. Term. Unless otherwise terminated pursuant to this Agreement, the term of this MOU will commence on the date of the last signature below and will terminate on the earlier of (i) the date on which the Program expires or (ii) the date on which the Program terminates in accordance with the conditions of the Program Funding, if any (the "**Term**").

5. Liaisons. The liaison for the County (or his/her designee) is listed on the signature page hereto. The liaison for the Commission shall be the Park Property Manager, Facilities Management Division or designee of the Commission's Montgomery County Department of Parks ("**Parks**"). The respective liaisons shall maintain an open line of communication and work together to immediately resolve issues arising from the use of the Storage Area. The parties shall circulate and update, as necessary, contact information for the liaisons.

6. Commission Responsibilities.

6.1 The Commission shall have (i) no responsibilities for the Program, including its operation, financing, security or maintenance, repair or replacement of the Storage Unit and/or the Storage Area; and (ii) no duty or obligation with respect to the condition of the Authorized Use Area except as otherwise required under the 1972 Agreement.

6.2 The Commission shall maintain the area surrounding and abutting the Storage Area in a manner customary to its maintenance of the Park.

6.3 The Commission represents that the access ingress and egress to and from the Storage Area, as well as the parking area thereat, consist of non-exclusive shared paths and parking within the Park. To the extent within the control of the Commission, it shall ensure that access to the Storage Area is not impeded.

6.4 The Commission's Park Police will conduct patrols of the Park in accordance with its customary patrols of the Park.

7. County's Use and Responsibilities. The below shall apply to the County's use and responsibilities relating to the Storage Unit and the Storage Area:

7.1 The County will operate the Storage Unit comprising a stainless-steel cold storage unit approximately 20'x10' in size in the Storage Area on an existing concrete pad following the proper installation of the same. The Storage Unit will be similar in appearance to the cold storage unit depicted in Attachment Three (Cold Storage Unit Sample Photo).

7.2 The County will have an exclusive use the parking lot consisting of five (5) parking spaces located adjacent to the Building (the "**Parking Area**"), as shown in Attachment One (Property Map), for parties utilizing the Storage Unit and for relocation of trash dumpsters currently located in the Storage Area. The County shall relocate the trash dumpsters to the three (3) parking spaces and the County shall convert the two (2) parking spaces to a single accessible parking space as designated in Attachment One (Property Map) and make any improvements to the Parking Area and Storage Area as required by the Americans with Disabilities Act ("**ADA**") and as shown in Attachment Two (ADA Site Plan). The Storage Area together with the Parking Area shall hereinafter be collectively referred to as the "**Authorized Use Area.**"

7.3 At its costs, the County shall cause to install a separate electric meter (or submeter) for the Storage Unit, under a County-named account, and shall directly pay all utility installations and costs associated with the Storage Unit. The electric meter (or submeter) shall be installed and operational prior to the use of the Storage Unit.

7.4 If required by law, the County shall submit an application for and obtain a Historic Area Work Permit prior to making any improvements in the Authorized Use Area and prior to the installation of the Storage Unit.

7.5 The County shall be solely responsible for the security of the Storage Unit, Storage Area, or any Authorized Use Area; and will ensure that Park patrons do not have means to open or otherwise access the Storage Unit.

7.6 The County will have 24/7 access to the Storage Area and shall provide prior notice to the Park Police if any such access will take place after the Park closure hours.

7.8 The County shall not allow the Storage Unit and/or any part of the

Authorized Use Area to become an attraction or haven for rodents and other pests (collectively, "**Pests**") and will maintain regularly scheduled preventative pest control measures and remediate pest issues resulting from the Program at all times during the Term. The County shall provide a copy of its Pest maintenance contract to the Parks liaison identified in Section 5 above within ten (10) days of Parks' request for the same.

7.9 The County shall maintain the Authorized Use Area in a good, useable, clean and safe condition and shall promptly remove any trash and debris therefrom resulting from its and County User's use thereof. The County shall repair any damage caused to the Authorized Use Area by its employees, Program participants, volunteers, invitee and/or guests (collectively, the "**County Users**"), ordinary wear and tear excepted.

7.10 The County shall (i) engage its own electrical services with a qualified and duly licensed electrician to install, maintain, repair or replace the Storage Unit and/or the Storage Area; and (ii) except for any emergency, notify Parks Property Management Office a minimum of three (3) business days before performing any work.

7.11 The County shall exert its best efforts to cause all County Users to exercise courtesy and consideration for pedestrians, motorists, and bicyclers, and use caution when driving on the Authorized Use Area.

7.13 The County shall be responsible for all aspects of the Program and the use of the Authorized Use Area for the Program.

7.14 The County shall, and cause the County Users to, observe and follow all applicable policies, rules and regulations of the Commission that are provided to the County at least thirty (30) days in advance.

8. Vehicular Use on Authorized Use Area. Vehicular activity on the Authorized Use Area shall be limited to vehicles no larger than pickup trucks, small box trucks and/or personal vehicles. The County shall cause vehicular activity to occur on paved areas and any damages on or about the Authorized Use Area caused by the County Users shall be promptly repaired and/or replaced by the County to Commission standards at the County's sole expense.

9. Management of Cold Storage Unit. The County, through its OAG shall manage the Storage Unit.

10. Restrictions on Use. The County agrees that it shall not, nor shall it knowingly permit, any County Users to:

10.1 Commit waste on or about the Authorized Use Area.

10.2 Use the Authorized Use Area for any purpose that is unlawful, unsafe or extra-hazardous because of fire or explosion, or that is in violation of any certificate of occupancy, or that may constitute a nuisance, public or private.

10.3 Bring, place, dispose of or store any dangerous article or illegal, controlled,

hazardous or toxic material or substance in the Authorized Use Area, nor permit any other person to bring, place, dispose of or store any dangerous article or illegal, controlled, hazardous or toxic material or substance on or about the Authorized Use Area. The foregoing shall not preclude the County from using materials commonly used in a cold storage unit operation, provided that the County properly uses, handles, and disposes of the same in accordance with all applicable environmental laws and the manufacturers' instructions with respect thereto.

10.4 Use the Authorized Use Area for repairing or maintaining vehicles or equipment other than the occasional emergency repair.

10.5 Make any alterations, additions or improvements to the Authorized Use Area without the prior written consent of the Commission, which it may withhold in its sole and absolute discretion.

11. Commission Access. The Commission may, upon 48 hours' notice to the County, access the Storage Area to make alterations, additions, or improvements to the Authorized Use Area only as may be necessary or desirable for the safety, protection or preservation of the Authorized Use Area or the Park in accordance with its obligations under the 1972 Agreement, or in order to comply with any order or requirements of governmental or other authorities. The Commission will use best efforts not to interfere with the County's operations at the Authorized Use Area during any such access and, except for any emergency, will coordinate the Commission's access to the Storage Area.

12. Authorized Use Area Enforcement. The Commission is not responsible for enforcing or ensuring the County's use rights on the Authorized Use Area.

13. Insurance. The parties acknowledge that each of them is self-insured for general liability and workers' compensation coverage and at the time of the execution of this MOU, both are members of the Montgomery County Self Insurance Program. The County represents that its insurance coverage applies and will apply to the Program and the Authorized Use Area at all times relevant. The insurance coverage for the County is subject to the limitations set forth in the Local Government Tort Claims Act (the "LGTC"), Md. Ann. Code, Cts. & Jud. Proc. §§ 5-303 et seq., as amended.

14. Compliance with Laws. The County shall, and cause County Users to, comply promptly with all applicable federal, state, and local laws, and regulations, and the orders and requirements of any public authority or agency having jurisdiction with respect to the Storage Unit and Authorized Use Area, including all policies, regulations and guidelines promulgated by the Commission and provided to the County at least thirty (30) days in advance, and any amendments thereto. The Commission agrees to forward promptly to the County any notice of violation of laws or regulations regarding its operation of the Authorized Use Area.

15. Required Permits. It shall be the sole responsibility of the County to obtain, and cause the County Users to obtain, all permits and licenses that may be required by applicable federal, state, and local laws, and regulations for the installation and operation

of the Storage Unit and the use of the Authorized Use Area. The County shall be responsible for the payment of all costs and expenditures associated with obtaining any necessary licenses and permits for itself.

16. Cessation of Use of the Authorized Use Area. Upon the termination or expiration of this MOU, the County agrees to exercise its best efforts to remove, within 30 days of the termination or expiration, all equipment, vehicles, signs, and any other property placed thereon and leave the Authorized Use Area in at least as good order and condition as at the commencement of the term of this MOU, except for ordinary wear and tear, loss by fire or other casualty.

17. Indemnification.

17.1 The County is a member of the Montgomery County Self-Insurance Program. Section 20-37(c) of the Montgomery County Code restricts legal defense to members of the program and does not allow for outside entities. The insurance coverage for the County is subject to, limited by and contingent upon the appropriations of funds, and to the limitations set forth in the LGTCA and other statutes conferring governmental limitations.

17.2 The County agrees to hold harmless and hereby indemnifies the Commission, from and against any and all claims, actions, damages, liability, and expense (including, reasonable attorneys' fees and court costs that may be awarded by a court of law) in connection with loss of life, personal injury, or damage to property arising from or out of any occurrence occasioned by any negligence or wrongful acts of the County at or upon the Authorized Use Area, or in carrying out the Purpose. For the purposes of this Section 18, the "**County**" includes Montgomery County, Maryland and its officers, directors, managers, officials, employees and registered volunteers.

17.3 This indemnification is subject to the notice requirements and the liability and damage caps stated in the LGTCA. This indemnification shall not be considered to be a waiver of governmental immunity and is not intended to create any rights or causes of action in third parties.

17.4 Despite anything to the contrary in this Section 17, the County shall not be liable for damage or injury occasioned by the acts or omissions of the Commission or its employees or agents, or the Commission's failure to comply with its obligations hereunder. Nothing herein shall be construed to abrogate, impair, or waive any defense to liability, damages limitation, or governmental immunity of the County, its officials, officers, employees, or agents pursuant to Maryland law, or otherwise.

17.5 This indemnification provision and the obligations contained herein shall survive expiration or termination of this MOU for a period of twelve (12) months.

18. Hazardous Materials Indemnification.

18.1 The County covenants that it has not caused or knowingly permitted, and will not cause or knowingly permit, at any time, any hazardous or toxic material or substance as

those terms are defined in any federal, state, or local law, rule or regulation in effect at any time during the County's use of the Authorized Use Area, and any portion of the Authorized Use Area, including but not limited to the Resource Conservation and Recovery Act of 1976, as amended, the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and the Environmental and Health Articles of the Annotated Code of Maryland, as amended (collectively referred to as "**Hazardous Material**") to be brought upon, kept, or used in or about the Authorized Use Area by the County, its directors, officers, or any of the County Users. If the County breaches the obligations stated herein, or if the presence of any Hazardous Material on the Authorized Use Area caused by or knowingly permitted by the County results in contamination of the Authorized Use Area or of properties located in the Authorized Use Area, or if contamination of the Authorized Use Area by Hazardous Material otherwise occurs for which the County is legally liable to the Commission for damage resulting therefrom, then the County shall indemnify and hold harmless the Commission and its Commissioners, officers, employees, agents, and representatives from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses, or expenses of any kind, including but not limited to attorneys' fees and other expenses awarded to the Commission by a court of law (including, without limitation, diminution in value of the Authorized Use Area, damages for the loss or restriction on use of the rentable or usable space or of any amenity of the Authorized Use Area, damages arising from any adverse impact on marketing the Authorized Use Area or adjoining building, and sums paid in settlement of claims, and for attorneys' fees, consultants' fees and expert fees) which arise as a result of such contamination.

18.2 This indemnification of the Commission by the County includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Authorized Use Area and/or adjacent properties. Without limiting the foregoing, if the presence of any hazardous material on the Authorized Use Area and/or adjacent properties caused by or permitted by the County results in any contamination of the Authorized Use Area and/or adjacent properties, the County, at its sole cost and expense, shall promptly take all actions as are necessary to return the Authorized Use Area and/or adjacent properties to a condition in compliance with applicable government standards, provided that the Commission's written approval of such actions shall first be obtained. The foregoing shall not preclude the County from using materials commonly used in a cold storage unit operation, provided that the County properly uses, handles, and disposes of the same in accordance with all applicable environmental laws and the manufacturers' instructions with respect thereto. The aforesaid indemnification and obligations shall survive the expiration or other termination of this MOU.

19. Waiver and Limitation of Liability. Except to the extent caused by the Commission's negligence or willful misconduct, the Commission does not assume and shall not be responsible or liable for (i) any damage, destruction or loss of any kind, by whomever or whatever caused, to personal property, documents, monies or goods of the County, the Storage Unit, Storage Area, any Authorized Used Area caused by the County's operation of the Program, or to any County User(s); or (ii) the operation, financing,

security, maintenance, repair or replacement of the Storage Unit, Storage Area, and/or the Program.

20. Event of Non-Compliance.

20.1 Upon the occurrence of an event of noncompliance by either party under this MOU, the Department Heads for the Parks and OAG shall meet to resolve the dispute.

20.2 If Commission, in its good faith, believes that a County noncompliance poses imminent danger to life and/or property, the Commission may remedy such emergency on the County's behalf and the County agrees to reimburse the Commission for all out-of-pocket costs incurred by the Commission thereunder.

20.3 If County, in its good faith, believes that a Commission noncompliance poses imminent danger to life and/or property, the County may remedy such emergency and the Commission agrees to reimburse the Commission for all out-of-pocket costs incurred by the County thereunder.

21. Commission Plan. The parties acknowledge and agree that the Commission's primary purpose is providing recreational opportunity and parkland for the public and that the Program constitutes incidental use of the Park until such time as the Commission implements any facility plan(s) approved in accordance with the Commission's standard plans and pursuant to applicable laws and regulations to fulfill the Commission's statutory purpose as set forth in the Md. Code, Ann., Land Use, Titles 14 through 27 (the "**Commission Plan**"). Accordingly, if, in the Commission's sole judgment, the location of the Storage Area and Authorized Use Area, as applicable, impede the implementation of the Commission Plan, and the County desires to continue the Program within the Park, then upon the Commission's 90 days prior written notice, at County's sole costs, (i) the County agrees to relocate the Storage Unit to a mutually agreeable alternative location within the Park; (ii) restore the original Storage Area to its original condition, ordinary wear and tear excepted; (iii) restore the Parking Area to its original condition, ordinary wear and tear excepted; (iv) configure the new location to the substantially same standards and conditions as established under this MOU for the Program; and (v) the parties agree to cooperate with each other to identify an alternative location. In such event, the parties agree to amend Attachment One to identify the new location of the Storage Area and Authorized Use Area, as applicable.

22. Remedies Cumulative. All rights and remedies enumerated in this MOU shall be cumulative and mention in this MOU of any specific right or remedy shall not preclude the Commission or County from exercising any other right or remedy now or hereafter allowed by or available under any statute, ordinance, rule of court, the common law, or otherwise at law or in equity or both.

23. Entire MOU.

This MOU embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated herein, and all prior agreements, understandings,

representations, and statements, oral or written, are merged into this MOU. Neither this MOU nor any provisions hereof may be waived, modified, discharged or amended except by a written instrument, dated and signed by the parties hereto.

24. Severability. If any provision or clause of this MOU is held invalid or unenforceable, that provision or clause shall be severed from this MOU and such holding shall not affect the validity of the remainder of this MOU.

25. Governing Law and Jurisdiction. This MOU is made pursuant to, and shall be construed and enforced in accordance with, the laws of the State of Maryland, and shall be exclusively enforced in a court of competent jurisdiction in Montgomery County, Maryland. The venue for a claim or dispute under this MOU shall be the District Court or Circuit Court for Montgomery County, Maryland.

26. Notices. All notices, requests, demands, consents or other communications which may be or are required or permitted to be served or given hereunder ("**Notices**") shall be in writing and shall be personally delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the Commission or County at the respective addresses set forth below.

Commission: Park Property Management
Montgomery County Department of Parks
Maryland-National Capital Park and
Planning Commission
8301 Turkey Thicket Drive, 2nd Floor
Gaithersburg, Maryland 20879

Copy not constituting notice to: Office of General Counsel
M-NCPPC
6611 Kenilworth Avenue, Suite 200
Riverdale, Maryland 20737

County: Montgomery County, Maryland
Department of General Services
101 Monroe Street, 9th Floor
Rockville, Maryland 20850
Attn: Director of Real Estate

Montgomery County, Maryland
Office of Agriculture
18410 Muncaster Road
Derwood, MD 20855
Attn: Director

Copy not constituting notice to: Montgomery County, Maryland
Office of the County Attorney
101 Monroe Street, 3rd Floor

Rockville, Maryland 20850
Attn: County Attorney's Office

Either party, by notice given as aforesaid, may change its address for all subsequent Notices. A Notice shall be deemed given when mailed in accordance herewith.

27. No Partnership or Joint Venture. Nothing herein contained is intended or shall be construed in any way to create or establish the relationship of partners or a joint venture between the Commission and the County. None of the officers, agents or employees of any party shall be deemed to be employees or agent of any other party for any purpose whatsoever.

28. Police Services. The Maryland-National Capital Park Police, Montgomery County Division (the "**Park Police**"), exercises primary police authority over parkland properties and will continue to provide police services regarding the Authorized Use Area in its customary manner for neighborhood parks. **For Emergency Police Service:** Call 911 and request the Park Police or call the Park Police directly at (301) 949-3010

29. Waiver of Jury. Each party waives right to a jury in any litigation in connection with this MOU, or the property, or the transactions contemplated by this MOU. Each party acknowledges that this waiver has been freely given after consultation by it with competent counsel.

30. Successors and Assigns. This MOU shall be binding upon, and inure to the benefit of, all parties hereto, their legal representatives, guardians, successors, and their assigns to the extent, but only to the extent, that assignment is provided for in accordance with, and permitted by, the provisions of this MOU.

31. Captions. The captions are inserted herein only for convenience of reference and in no way define, describe or limit the scope or intent of this MOU or the particular provisions to which they refer.

32. Gender and Number. Words of any gender used in this MOU shall be held to include any other gender, and words in the singular number shall be held to include the plural number and words in the plural number shall be held to include the singular number, when the sense so requires.

33. Authorized Signature. Each party represents and warrants to the other that it is authorized to enter into this MOU, that the person signing on its behalf is duly authorized to execute this MOU, and that no other signatures are necessary.

34. Obligations Surviving Termination. If this MOU is terminated for any reason other than noncompliance of the County, all liabilities of the parties shall be adjusted as of the effective date of termination. Any termination hereof by reason of a noncompliance of the County shall not affect any obligation or liability of the County under this MOU that accrued prior to the effective date of termination, and all such obligations and liabilities of MOU shall survive such termination.

35. Taxes. County represents and warrants to the Commission that the Program and the uses thereunder, as a County government program, are not subject to any taxes, levies, or assessments of any kind.

36. Limitation of Liability. Any obligation or liability of the County and Commission arising in any manner from any part of this MOU is subject to, limited by, and contingent upon the appropriation and availability of funds as well as the damage caps and notice requirements stated in the LGTCA, and in the case of the Commission, also the Maryland Tort Claims Act, Md. Code, Ann., SG § 12-101 *et seq.*, as amended. This provision does not create any rights in any third parties.

37. Incidents and Accident Reports. The County shall promptly notify the Commission and the County's insurance carrier of any personal injury, property damage, incidents and accidents on or about the Authorized Use Area, including, but not limited to accident, fire, water, flood, wind, explosion and vandalism. The County shall immediately notify both (a) the Park Police at (301) 949-3010, (b) the Commission's Property Management Office at (301) 495-2520; and (c) the Commission's Montgomery County Department of Parks Northern Region at (301) 670-4691.


38. Electronic Signature. The parties acknowledge and agree that this MOU may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this MOU on the dates written below.

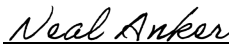
MONTGOMERY COUNTY, MARYLAND:

Date: 05/10/2024

By: 
Fariba Kassiri
Deputy Chief Administrative Officer

County Liaison: _Jacqueline Arnold

APPROVED FOR FORM & LEGALITY:

By: 
Neal Anker
Assistant County Attorney
Date: 5/1/2024

**MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION**

Date: _____

By: _____
Bill Spencer
Acting Executive Director

APPROVED AS TO LEGAL SUFFICIENCY:

M-NCPPC Legal Department
Date: _____

IN WITNESS WHEREOF, the parties hereto have executed this MOU on the dates written below.

MONTGOMERY COUNTY, MARYLAND:

Date: _____

By: _____
Fariba Kassiri
Deputy Chief Administrative Officer

County Liaison: _Jacqueline Arnold

APPROVED FOR FORM & LEGAL SUFFICIENCY:

By: _____
Neal Anker
Associate County Attorney
Date: _____

**MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION**

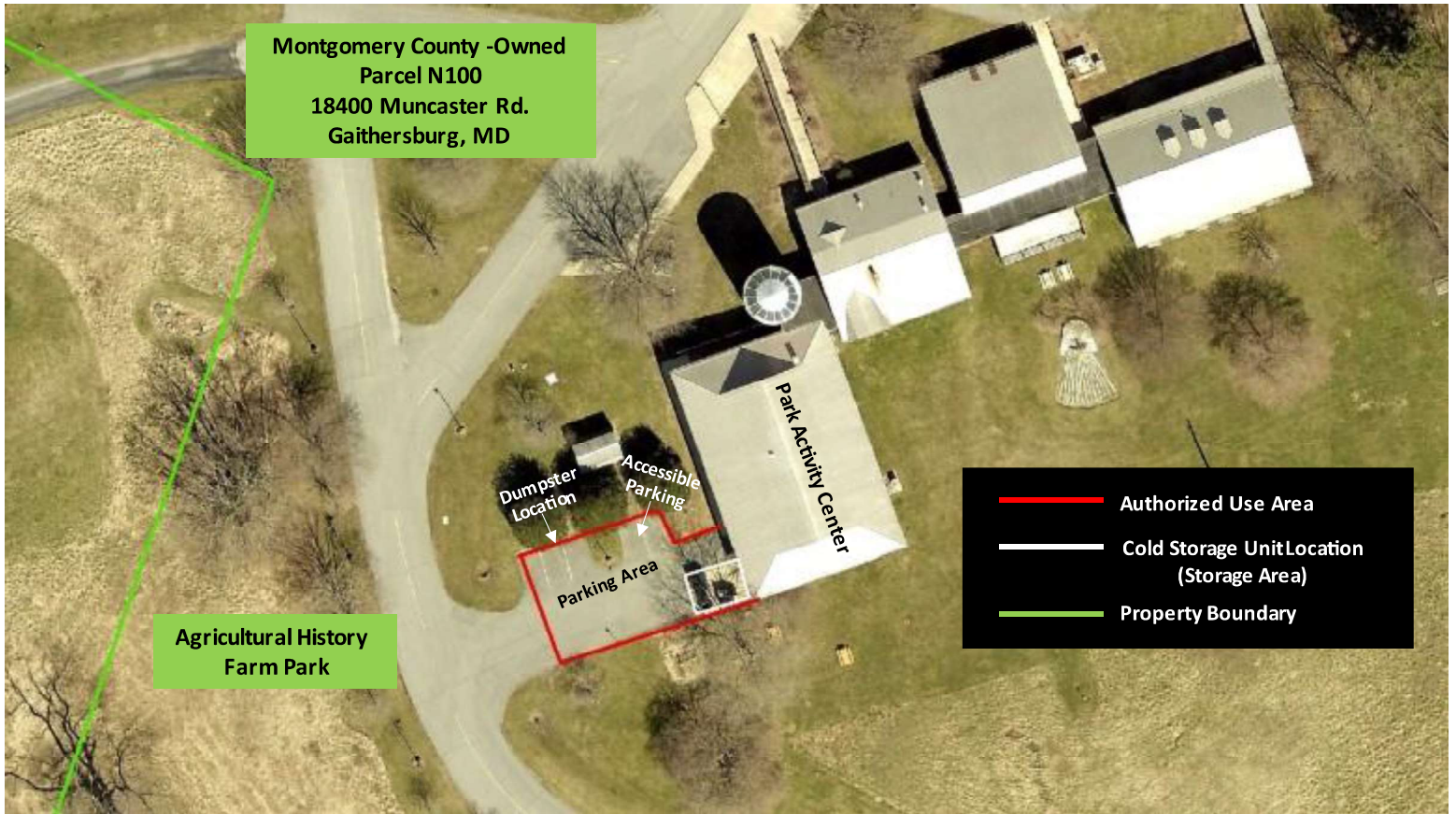
Date: 05/08/2024

By: *William Spencer*
Bill Spencer
Acting Executive Director

APPROVED AS TO LEGAL SUFFICIENCY:

Megan Chung
M-NCPPC Legal Department
Date: 05/06/2024

ATTACHMENT ONE
Property Map



Attachment Two

ADA Site Plan



ATTACHMENT THREE
Cold Storage Unit Sample Photo



ATTACHMENT FOUR

Program Funding

[Separately attached hereto]

MEMORANDUM OF UNDERSTANDING Cold Storage Unit

This Memorandum of Understanding (“MOU”) is made by and between the Montgomery County Food Council (“MCFC”), P.O. Box 34412, Bethesda, MD 20827, and Montgomery County, Maryland (the “County”).

RECITALS

MCFC is a non-profit organization dedicated to optimizing the local food system to enhance food access for County residents experiencing food insecurity.

The County is the titled owner of real property located at 18400 Muncaster Road, Gaithersburg, Montgomery County, Maryland 20855 (tax account number: 01-00001276, parcel number: N100, property area: 68.36 acres), more commonly known as the Agricultural History Farm Park (the “Park”). The Park includes a building more commonly known as the Agricultural History Farm Park Activity Center (the “Building”).

MCFC has been awarded a grant from the Greater Washington Community Foundation to be used for the purchase of a commercial-grade, walk-in cold storage unit (the “Unit”).

MCFC and the County desire to install the Unit in the Park, adjacent to the Building, for the purpose of providing a central location for county farmers to aggregate and store their produce for subsequent distribution.

This MOU is entered into for the purpose of setting forth the agreement between the parties.

ACCORDINGLY, the parties agree as follows:

1. The above Recitals are incorporated into this MOU by reference.
2. MCFC will obtain a commercial-grade, walk-in, stainless-steel cold storage unit approximately 20’ by 10’ in size (the “Unit”). MCFC will retain title to the Unit.
3. The Unit will be installed in the Park, adjacent to the Building, in a location agreed to by the County and the Maryland-National Capital Park and Planning Commission (“MNCPPC”) via a separate agreement. The County will be responsible for any delivery installation costs.
4. The Unit will be made available to county farmers to add to their distribution channel and to offer food programs for the public, including farm-to-table, farm-to-school, and farm-to-food banks (the “Program”). The County will manage the Program and the use of the Unit.
5. The County will be responsible for all operating, repair, and maintenance costs for the Unit while it is located at the Park and used for the Program. MCFC may apply for and obtain future grants for the purpose of maintenance, repair and other needs related to the Unit.

6. In the event the Program is discontinued, or the County and MNCPPC dissolve their agreement regarding placement of the Unit, MCFC has the right to relocate the Unit to another location for continued use by farmers and food assistance providers. MCFC will be responsible for the cost of any relocation to a non-County location.

7. MCFC is not liable for any claims, causes of action, or damages arising out of the use of the Unit while the Unit is located at the Park.

8. The County is not liable to MCFC for any loss, damage, or diminution in value to the Unit unless said loss, damage, or diminution in value is caused solely by the negligence of the County or its employees.

9. The term of this MOU will commence on the date of signature by MCFC and the County's Chief Administrative Officer or his/her designee, and will expire when (i) the Program is discontinued; (ii) the County and MNCPPC dissolve their agreement regarding placement of the Unit; (iii) the unit is rendered non-operational due to age or damage rendering the Unit a total loss; or (iv) either party terminates the MOU with 60 days' written notice to the other party.

10. This MOU cannot be assigned by either party without the other party's written consent.

11. Nothing herein contained is intended or shall be construed in any way to create or establish the relationship of partners or a joint venture between MCFC and the County. None of the officers, agents or employees of any party shall be deemed to be employees or agent of any other party for any purpose whatsoever.

12. This MOU is made pursuant to, and shall be construed and enforced in accordance with, the laws of the State of Maryland, and shall be exclusively enforced in a court of competent jurisdiction in Montgomery County, Maryland. Venue for a claim or dispute under this MOU shall be the District Court or Circuit Court for Montgomery County, Maryland.

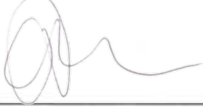
13. If any provision or clause of this MOU is held invalid or unenforceable, that provision or clause shall be severed from this MOU and such holding shall not affect the validity of the remainder of this MOU.

14. This MOU embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated herein, and all prior agreements, understandings, representations, and statements, oral or written, are merged into this MOU. Neither this MOU nor any provisions hereof may be waived, modified, discharged or amended except by a written instrument, dated and signed by the parties hereto.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this MOU on the dates written below.

MONTGOMERY COUNTY
FOOD COUNCIL

By:  _____

Massa Cressall
Interim Executive Director

Title

11/2/2023

Date

MONTGOMERY COUNTY, MARYLAND


By:  for _____

Richard Madaleno
Chief Administrative Officer

11/09/2023

Date

RECOMMENDED BY:

 _____

Mike Scheffel, Director
Office of Agriculture

10/27/2023

Date

APPROVED AS TO FORM
AND LEGALITY
OFFICE OF THE COUNTY ATTORNEY

 _____
Megan Greene, Assistant County Attorney

11/01/2023

Date



GRANT AGREEMENT

ORGANIZATION: Montgomery County Food Council
AMOUNT: \$39,000
PURPOSE: To support the MoCo Made Farmer Aggregation and Processing Collaborative through the Montgomery County Food Council (\$20,000 trailer purchase and installation; \$2,000 kitchen upgrade; \$5,000 shared use kitchen plan creation consulting; \$12,000 project coordination)
GRANT PERIOD: November 01, 2022 – October 31, 2023
FUND: Food for Montgomery Fund

USE OF GRANT FUNDS

Montgomery County Food Council may use the grant funds only for the purpose outlined above. Montgomery County Food Council acknowledges the Greater Washington Community Foundation has not earmarked the use of the grant funds or any portion thereof for any other organization or individual.

Montgomery County Food Council further acknowledges that the grant award cannot be used to support political campaigns or activities outside of the organization's 501(c)(3) public charity status.

PAYMENT OF GRANT FUNDS

The following schedule of grant payment(s) is a preliminary estimate of the timing and amount of payment(s) to Montgomery County Food Council by the Greater Washington Community Foundation. The grant award will be released to Montgomery County Food Council upon the Greater Washington Community Foundation's receipt of a signed copy of this grant agreement.

<u>Payment Amount</u>	<u>Payment Date</u>
\$39,000	November 10, 2022

CONTINGENCIES AND REPORTING

Montgomery County Food Council will submit the following contingency and reporting documentation to the Greater Washington Community Foundation by the specified deadline(s) indicated below. The necessary contingency and reporting formats have been provided for your reference.

<u>Due Date</u>	<u>Contingency/Reporting</u>
6/15/2023	Interim Report
12/15/2023	Final Report

Reporting can be completed using the **WRAG Common Report format**, which can be obtained at www.washingtongrantmakers.org. Reports may be submitted via email to Olivia Hsu (ohsu@thecommunityfoundation.org) and Anna Hargrave (ahargrave@thecommunityfoundation.org).

The Community Foundation team will follow up via email to discuss potential visibility opportunities to recognize the donors to Food for Montgomery that made this grant possible.



CERTIFICATION AND MAINTENANCE OF EXEMPT ORGANIZATION STATUS

Montgomery County Food Council certifies it has been determined by the Internal Revenue Service to be a tax-exempt organization under Section 501(c)(3) of the Code, and “not a private foundation,” within the meaning of Code Section 509(a), or in the absence of such a determination, that you are a state or any political subdivision thereof within the meaning of Code Section 170(c)(1), or a state college or university within the meaning of Code Section 511(a)(2)(B) (referred to hereafter as a “Public Charity”). You will immediately inform the Greater Washington Community Foundation of any change in or challenge to your status as a Public Charity.

Montgomery County Food Council will utilize the grant awards proceeds only for charitable and educational activities consistent with its tax-exempt status described above. Additionally, **Montgomery County Food Council** will not intervene in any election or support or oppose any political party or candidate for public office, or engage in any lobbying not permitted by IRS §501(c)(3).

Furthermore, you hereby affirm that this grant will not cause you to fail to qualify as a Public Charity. You will comply with the provisions of the Code and the regulations hereunder applicable to you as a Public Charity and will not violate any other statute or regulation applicable to you where such violation materially affects your ability to carry out the goals of the grant.

RECORDS

Montgomery County Food Council will maintain its books and records in such a manner that the receipts and expenditures of the grant funds will be shown separately on such books and records in an easily checked form. You will keep records of receipts and expenditures of grant funds as well as copies of the reports submitted to the Greater Washington Community Foundation and supporting documentation for at least five (5) years after the completion of the use of the grant funds, and will make such books, records, and supporting documentation available to the Greater Washington Community Foundation for inspection at reasonable times from the time of your acceptance of this grant through such period.

VIOLATION OF TERMS CHANGE OF STATUS

In the case of any violation by **Montgomery County Food Council** of the terms and conditions of the grant, including but not limited to not executing the work of the grant in substantial compliance with the Memorandum of Understanding, or in the event of any change in or challenge by the Internal Revenue Service of your status as a Public Charity, the Greater Washington Community Foundation reserves the right in its absolute discretion to demand the resolution of unspent funds.

MODIFICATION

This agreement sets forth all terms of the grant and replaces all prior understandings and agreements. Any modification or amendment will be made only in writing signed by an authorized officer of your organization and of the Greater Washington Community Foundation.

APPLICABLE LAW

This agreement will be construed in accordance with the laws of District of Columbia.

Please review, sign and return a copy of the entire grant agreement by **November 7, 2022 via AdobeSign**. The grant will commence upon receipt of the signed grant agreement.



Prepared by:
Greater Washington Community Foundation

Name: Marcus Braxton

Title: Chief Operating Officer

Signature: Marcus Braxton

Date: Nov 8, 2022

Accepted by:
Montgomery County Food Council

Name: Heather Bruskin
(Type or print name of person signing the grant agreement)

Title: Executive Director
(Type or print title of person signing the grant agreement)

Signature: Heather Bruskin
(Authorized signature of senior executive officer)

Date: 11/2/22



Grant Agreement Amendment
Grant #23002762

This amendment revises the agreement to which it is attached between the Montgomery County Food Council and the Greater Washington Community Foundation to reflect:

Due to a 6-12 month delay in approval of the shared-use kitchen component of the project, increased costs of cold storage units, and other unanticipated costs related to the cold storage unit project (e.g. required installation of a separate electricity meter, possible 3-phase power installation, possible concrete pad installation), the Montgomery County Food Council requests to reallocate the \$7,000 originally earmarked for the shared-use kitchen (\$2,000 for kitchen upgrades and \$5,000 for shared-use kitchen plan creation consulting) to the cold storage component of the project.

The Community Foundation approves the reallocation of these dollars, along with an extension of the grant period to December 31, 2023. The extension will allow additional time for an agreement to be finalized with Montgomery Parks, and subsequently, for the cold storage unit to be purchased and installed.

The Montgomery County Food Council will report back to The Community Foundation's staff if additional amendments are needed beyond those described above.

Greater Washington Community Foundation

Name: Marcus Braxton

Title: COO

Signature: *Marcus Braxton*

Date: Aug 8, 2023

Montgomery County Food Council

Name: Massa Cressall

Title: Interim Executive Director

Signature: *Massa Cressall*

Date: Aug 7, 2023